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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,894	10/21/2003	Glenn E. Macierowski	17971. 04	4971
37833	7590	01/26/2005	EXAMINER	
LITMAN LAW OFFICES, LTD. P.O. BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			TON, ANABEL	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/688,894	Applicant(s) MACIEROWSKI ET AL.	
	Examiner Anabel M Ton	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3,15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kukuk (US 2002/0163799).

3. Kuku discloses a cap which releasably received a light device with a light element (16-19, 31-34, fig 1), multiple shaft sections including at least first second and third shaft sections ad a striking end (fig 2, 101, 1-7); the first, second and third shaft sections are cylindrically shaped and each shaft section has predetermined inner and outer diameters a predetermined length and opposing ends (fig 2), the inner diameter of the first shaft section is larger than the outer diameter of the second shaft section and the inner diameter of the second shaft section is larger than the diameter of the third shaft section the first shaft section being configured to enable the second shaft section to releasably retract into or extend out of the first shaft section and the second shaft section being configured to enable the third shaft section to releasably retract into or extend out of the second shaft section (fig 2), a slide handle configured for being attached to a side of the straight baton(23), a spray canister and connection device

contained within the slide handle, the spray canister being configured to carry a chemical irritant and the connection device being configured to interconnect the side handle of with the straight baton (100), a spray actuator attached to a top of the spray canister , the spray actuator attached including a base portion with an inner diameter form fitted for compressively receiving the top of the spray canister and including an L-shaped channel contained within the gripping portion of the side handle (100, 23, 30, 53, 11), the spray actuator includes a safely flap(30), a built in hinge point and a squared off forward section(28).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-7,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kukuk as applied to claim 1 and further in view of Parsons (5,509,653).

6. Kukuk discloses the claimed invention except for the recitation of the cap being a bulbous/mushroom shaped head, which releasably receives the light device, the cap having a threaded end. Parsons discloses a baton with a cap including a bulbous/mushroom (38) head and being threaded for removably attaching the cap to the threaded end. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the bulbous head with a threaded end in the device of

Kukuk for the purpose of having an end to the baton that facilitates releasably receiving interchanging end and interface devices to the baton. Kukuk discloses the head of the cap having a predetermined outer diameter of the first shaft section of the baton; a portion of the head is transparent (18,32). The striking end of Parson's baton is configured without arcuate edges and includes a threaded end (32,34).

7. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kukuk as applied to claim 3 above, and further in view of Starett (5,320,348)

8. Parsons discloses the claimed invention except for the recitation of the first shaft section of the baton including two ends, an aperture defined in a side of the first shaft section proximate one of the ends that is configured for releasably receiving a threaded end of the cap, the second shaft section of the baton includes two ends an aperture defined in a side of the second shaft section proximate one of the ends and a spring plunger mechanism configured to lock the second shaft section into an extended position via the aperture of the first shaft section when the second shaft section extends from the first shaft section. Starett discloses the first shaft section of the baton including two ends, an aperture defined in a side of the first shaft section proximate one of the ends that is configured for releasably receiving a threaded end of the cap (17), the second shaft section of the baton includes two ends an aperture defined in a side of the second shaft section proximate one of the ends and a spring plunger mechanism configured to lock the second shaft section into an extended position via the aperture of the first shaft section when the second shaft section extends from the first shaft section and a o-rings to form a shock absorber stop mechanism (figs 7-11). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to implement the teaching of Starett's spring plunger mechanism and o-rings in the device of Kukuk since as taught by Starett such an embodiment is useful for the purpose of providing a baton with a shaft locking mechanism with a dampening means.

9. With regards to the third shaft section of the plunger having a spring mechanism plunger mechanism and split o-rings for shock absorbing, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a spring mechanism plunger mechanism in the third shaft, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

10. With regards to the striking end being threaded to releasably receive a threaded end of the striking end it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a threaded end in the device of Kukuk since such a structure is old and well known in the art for the purpose of providing a striking baton with optional striking ends (see Parsons 5,509,653).

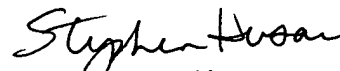
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875

AMT


Stephen Husar
Primary Examiner